

**INTERGOVERNMENTAL AGREEMENT BETWEEN
THE TOWN OF FRASER
AND
THE TOWN OF WINTER PARK**

THIS AGREEMENT made and entered into this _____ day of _____, 2005, by and between the TOWN OF FRASER (hereinafter referred to as "Fraser") and the TOWN OF WINTER PARK (hereinafter referred to as "Winter Park"), and collectively referred to as "municipalities."

WHEREAS, Fraser and Winter Park have contracted with the Grand County Sheriff's Office for Law Enforcement and are terminating these contracts effective May 1, 2005; and

WHEREAS, Fraser and Winter Park mutually agree that establishment of a joint Fraser/Winter Park Police Department is in the best interests of both municipalities; and

WHEREAS, cooperation among adjoining and adjacent municipalities is not only a proper exercise of municipal governmental powers and duties under and pursuant to Colorado Revised Statute 29-1-203, but will also permit and be conducive to the furnishing of such services in the most cost effective way possible.

NOW, THEREFORE, in consideration of their mutual rights and obligations as set forth below, Fraser and Winter Park agree as follows:

1. AUTHORITY FOR AGREEMENT.

1.1 This Intergovernmental Agreement is being entered into by the municipalities pursuant to the authority granted to municipalities in Colorado Revised Statute 29-1-203, which allows governments to cooperate or contract with one another to provide any function, service, or facility lawfully authorized to each of the cooperating or contracting units.

2. TERM OF AGREEMENT, WITHDRAWAL OR DISSOLUTION.

2.1 Subject to the provisions of Subparagraph 2.2, the term of this Agreement shall continue indefinitely and no municipality can terminate its rights, duties, obligations or requirements imposed herein without the consent of all parties hereto.

2.2 Fraser and Winter Park acknowledge that their obligations under this Agreement are subject to annual appropriation by the governing body of each respective party and shall not constitute or give rise to a general obligation or other indebtedness of either party within the meaning of any constitutional or statutory provision or limitation of the State of Colorado nor a mandatory charge or requirement against either party in any ensuing fiscal year beyond the current fiscal year. If the governing body of either party shall fail to budget and appropriate funds for its

share of expenses, in accordance with Paragraph 5 hereof, then this Agreement shall terminate as of the end of the fiscal year for which such funds were last budgeted and appropriated.

3. SINGLE LAW ENFORCEMENT AGENCY.

3.1 The parties hereto agree to create a joint law enforcement agency to provide police protection and services to each of the municipalities. The agency herein created shall be known as the Fraser/Winter Park Police Department (sometimes referred to herein as the "Police Department").

3.2 All mutual municipal boundaries of the municipalities shall be considered as non-existent for the purposes of police service, so that a single service area comprising the total geographic area of Fraser and Winter Park is established. Notwithstanding the foregoing, each municipality shall be responsible for the adoption of its own ordinances and regulations applicable within its municipal boundaries.

3.3 Winter Park shall serve as the managing agency for the Police Department. Winter Park shall be responsible for paying all Police Department bills and shall provide monthly accountings to Fraser. Furthermore, Winter Park shall be responsible for managing all employment matters, insurance, and other related matters. The personnel employed under the terms of this Agreement shall at all times be considered Winter Park employees and not employees of Fraser, and they shall not be entitled to any employment benefit, pension, civil service, unemployment compensation, or other status or right relating to Fraser employees.

3.4 The Police Chief shall report directly to the Fraser Town Manager and Winter Park Town Manager.

3.5 All Police Officers shall be sworn to serve and protect both municipalities.

4. APPORTIONMENT OF EXPENSES.

4.1 All costs and expenses for operating the Police Department shall be apportioned as follows:

Based upon a four year average of call volume, the initial apportionment shall be 60% Winter Park and 40% Fraser.

It is understood and agreed that this apportionment shall be re-evaluated during the fall of 2006 and each succeeding year and may be amended as agreed upon by both parties.

The costs of capital equipment (except police vehicles) acquired while this Agreement is in effect shall be shared in accordance with such 60%/40% apportionment; and if this Agreement is terminated, such assets shall be divided in

accordance with the same apportionment. Police vehicles shall be purchased and titled as provided in Section 6.

5. ANNUAL BUDGET AND PAYMENT OF EXPENSES.

5.1 The Police Chief shall prepare an annual budget which shall be submitted for consideration and approval to each of the municipalities' governing bodies not later than September 1 of the year prior to the year for which the budget is prepared and submitted.

5.2 Fraser shall pay its apportioned share of the annual budget on a monthly basis to Winter Park.

6. POLICE VEHICLES.

6.1 Each municipality currently owns existing police vehicles, which will be made available for use by the Police Department. The Town of Winter Park shall purchase, own and register all Police vehicles for insurance purposes; provided, however, that existing vehicles and those purchased in the future will continue to be allocated to the municipality that contributed or purchased the vehicle. The municipalities' governing bodies shall decide on a schedule for replacing vehicles during the annual budget process. It is anticipated that a fleet of five or six vehicles will be needed and that each vehicle may need to be replaced after 80,000 miles of service. A vehicle being replaced shall be titled to the municipality which purchased the vehicle. Fraser shall reimburse Winter Park for approved purchases of vehicles allocated to Fraser. The Town Managers and Police Chief shall retain records concerning the fleet replacement schedule and which vehicles are allocated to each municipality; and in the event this Agreement is terminated, title to the vehicles allocated to each municipality shall be transferred to that municipality.

7. LIMITATION ON EXPENDITURES.

7.1 Any expenditures beyond the total approved in the annual budget shall be required to be approved by the governing body of each of the participating municipalities or such expenditure shall not be authorized and apportionment of expenses (Section 4) shall not apply. However, either municipality may unilaterally make Police Department expenditures if reimbursement from the other municipality is not expected.

8. LOCATION OF POLICE HEADQUARTERS AND RECORDS.

8.1 The central police headquarters for the Police Department shall be located at 78336 U.S. Highway 40. This location may move as agreed by both parties.

8.2 All personnel files and financial records relating to the operation of the Police Department shall be maintained in a secure manner at the Winter Park Town Hall.

8.3 All police records shall be maintained in a secure manner at 78336 U.S. Highway 40 and/or the Winter Park Town Hall.

9. INSURANCE AND LIABILITY.

9.1 The Governmental Immunity Act, Colorado Revised Statute '24-10-101, ~~et seq.~~, as amended, provides protection to both municipalities, the Police Department and Police Department employees.

9.2 Winter Park shall obtain appropriate property, general liability, auto liability, errors and omissions, law enforcement liability and workers' compensation insurance for the Police Department, as agreed upon by the Town Managers and in accordance with the approved budget.

9.3 Should the Police Department be involved in litigation, the municipalities shall share any liabilities and costs not covered by insurance in accordance with the apportionment referred to in Section 4; provided, however, that Fraser shall not bear any liability for, nor share in the costs of any litigation arising from personnel actions taken by Winter Park without the approval of Fraser.

10. POLICE OFFICERS' AUTHORITY AND NATURE OF SERVICES.

10.1 All police officers, including the Police Chief, shall be deemed to be the commissioned police officers of each municipality, with all powers and authority granted by law and by the ordinances of each municipality to the Chief of Police and police officers thereof. The Police Chief and the police officers providing law enforcement services in each municipality shall enforce the municipal ordinances of the municipality, as well as applicable state statutes, and shall respond to citizens' complaints.

10.2 The police services performed and the expenses incurred under this Agreement shall be deemed for public and governmental purposes, with any immunities thereunto appertaining.

11. ADOPTION OF AGREEMENT BY ORDINANCE AND LEGALLY BINDING STATUS.

11.1 This Agreement shall be deemed in force as to the municipalities when the same has been adopted by ordinance or resolution of all the participating municipalities.

11.2 After such adoption, this Agreement shall be binding upon the municipalities and the covenants hereof may be enforced by appropriate remedy by any one or more of the municipalities against any other municipality.

11.3 In any legal action brought by any party to this Agreement to enforce the terms hereof, the prevailing party shall be entitled to all costs incurred in connection with the action, including attorneys' fees.

12. AMENDMENTS.

12.1 This Agreement may be amended, modified, changed, or terminated in whole or in part only by a written agreement duly authorized and executed by each municipality in the same manner as this Agreement.

13. SEVERABILITY.

13.1 Should any of the provisions of this Agreement be held to be invalid or unenforceable, then the balance of this Agreement shall be held to be in full force and effect as though the invalid portion was not included; provided, however, that should the invalidity or unenforceability go to the essence of the Agreement or be of a substantial nature, then the party or parties who would receive the benefit of the provision, were it not invalid or unenforceable, shall have the option to terminate this Agreement, forthwith.

14. GOVERNING LAW.

14.1 This Agreement shall be governed by, and interpreted in accordance with, the laws of the State of Colorado, and venue for any action arising out of any dispute hereunder shall be in the Grand County District Court of the State of Colorado.

IN WITNESS WHEREOF, and intending to be legally bound hereby, in accordance with proper ordinance of each of the governing bodies of the municipalities, we have hereunto caused this instrument to be executed and the municipal seals affixed the day and year written above.

ATTEST:

TOWN OF FRASER

Molly McCandless, CMC, Town Clerk

Patrick M. Howlett, Mayor

ATTEST:

TOWN OF WINTER PARK

Nancy J. Anderson, CMC, Town Clerk

Harold N. Teverbaugh, Mayor